

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FT. LAUDERDALE DIVISION

**CASE NO. 0:22-CV-62090-KMW**

CHRISTOPHER ALLEN ROLDAN,

Plaintiff,

v.

CORAL SPRINGS HONDA  
d/b/a PAGE BROTHERS ASSOCIATES, INC.,

Defendant.

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**DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S COMPLAINT,  
COMPEL ARBITRATION, STAY DISCOVERY  
& INCORPORATED MEMORANDUM OF LAW**

Defendant, CORAL SPRINGS HONDA d/b/a PAGE BROTHERS ASSOCIATES, INC. (“Defendant”), by and through undersigned counsel, hereby files its Motion to Dismiss Plaintiff’s Complaint, Compel Arbitration, Stay Discovery and Incorporated Memorandum of Law, and in support thereof, states the following:

**I. PRELIMINARY STATEMENT**

Plaintiff has filed the instant lawsuit for an alleged violation of the Federal Consumer Leading Act pursuant to 15 U.S.C. § 1667a. Within the Complaint, Plaintiff alleges Defendant did not properly disclose certain fees associated with the

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“purchase option” set forth in Plaintiff’s Vehicle Lease Agreement, which he entered into with Defendant on or about June 5, 2019. Defendant moves to dismiss this action because the governing Vehicle Lease Agreement expressly requires that Plaintiff’s claims be resolved solely through Arbitration. Accordingly, Defendant also moves this Court to compel arbitration and stay discovery pending the outcome of arbitration.

## II. PERTINENT FACTS

1. On or about June 5, 2019, Plaintiff entered into a Closed-End Vehicle Lease Agreement (“Lease Agreement”) with Defendant, wherein Plaintiff leased a 2019 Honda Accord.

2. Section 52 of the Lease Agreement (attached to Plaintiff’s Complaint) provides the following:

ARBITRATION: PLEASE READ THIS SECTION CAREFULLY	
<p><b>52. ARBITRATION:</b></p> <p><b>PLEASE READ THIS ARBITRATION PROVISION CAREFULLY TO UNDERSTAND YOUR RIGHTS. BY ELECTING ARBITRATION, YOU AGREE THAT ANY CLAIM THAT YOU MAY HAVE IN THE FUTURE MUST BE RESOLVED THROUGH BINDING ARBITRATION. YOU WAIVE THE RIGHT TO HAVE YOUR DISPUTE HEARD IN COURT AND WAIVE THE RIGHT TO BRING CLASS CLAIMS. YOU UNDERSTAND THAT DISCOVERY AND APPEAL RIGHTS ARE MORE LIMITED IN ARBITRATION.</b></p> <p>Arbitration is a method of resolving a claim, dispute or controversy without filing a lawsuit. By agreeing to arbitrate, the right to go to court is waived and instead claims, disputes or controversies are submitted to binding arbitration. This provision sets forth the terms and conditions of our agreement. YOU and HONDA agree and acknowledge that this Lease affects interstate commerce and the Federal Arbitration Act (“FAA”) applies.</p> <p>By signing the Arbitration Consent, YOU elect to have disputes resolved by arbitration. YOU, HONDA or any involved third party may pursue a Claim. “Claim” means any dispute between YOU, HONDA, or any involved third party relating to your account, this Lease, or our relationship, including any application, the Vehicle, its performance and any representations, omissions or warranties. “Claim” does not include personal injury or wrongful death claims. YOU or HONDA may seek remedies in small claims court or provisional judicial remedies without arbitrating.</p> <p>YOU or HONDA may select arbitration with American Arbitration Association (JAMS) or National Arbitration and Mediation. Contact these sponsors for their rules. The hearing will be in the federal district where YOU reside. If agreed, it may be by telephone or written submissions.</p>	<p>Filing and arbitrator fees to be paid per the sponsor rules. You may contact the sponsor for a fee waiver. If no fee waivers, HONDA will pay filing and arbitrator fees up to \$5,000, unless law requires more. Each party is responsible for other fees. Arbitrator may award costs or fees to prevailing party, if permitted by law. HONDA will not seek fees, unless the claims are found to be frivolous.</p> <p>Arbitrator shall be an attorney or current or retired judge familiar with automotive or consumer finance. The arbitrator shall follow substantive law, statute of limitations and decide all issues relating to the interpretation, construction, enforceability and applicability of this provision. The arbitrator may order relief permitted by law. This provision is governed and enforceable by the FAA. An award shall include a written opinion and be final, subject to appeal by the FAA.</p> <p>This provision survives termination of this Lease or relationship, bankruptcy, assignment or transfer. If part of this provision is unenforceable, the remainder remains in effect. If unenforceability allows arbitration as a class action, then this provision is entirely unenforceable. HONDA reserves the right to make changes to this provision after providing written notice and an opportunity to opt out. YOU may opt out within 30 days of signing this Lease by sending a signed, written notice to HONDA at Honda Financial Services, P.O. Box 165007, Irving, TX 75016.</p> <p>HONDA means the Lessor, Dealer, Honda Lease Trust, American Honda Finance Corporation (AHFC), American Honda Motor Co., Inc., Honda Finance Exchange, Inc., Acura Financial Services (AFS), Honda Financial Services (HFS), HVT, Inc., their parents, subsidiaries, predecessors, successors, assignees, and officers, employees, representatives and agents. YOU means Lessee and Co-Lessee to this Lease.</p>
<p>HFS LS FL 08/16      HONDA FINANCIAL SERVICES</p>	<p>Lessee's Initials _____ Co-Lessee's Initials <u>N/A</u>      Page 6 of 5  60993*1*CS120-F1      08/05/2019      07:32 pm</p>

3. As shown within the Lease Agreement, Plaintiff agreed that “any claim” he may have with respect to the Lease “must be resolved through binding arbitration.”

4. Additionally, Plaintiff agreed to “waive the right” to have his dispute “heard in court.”

### **III. MEMORANDUM OF LAW AND LEGAL ARGUMENT**

When deciding whether to grant a motion the court must accept “the complaint's allegations as true and constru[e] them in the light most favorable to the plaintiff.” *Castillo v. Allegro Resort Mktg.*, 603 F. App’x 913, 915 (11th Cir. 2015) (quoting *Chaparro v. Carnival Corp.*, 693 F.3d 1333, 1335 (11th Cir. 2012)). “A court is generally limited to reviewing what is within the four corners of the complaint on a motion to dismiss.” *Austin v. Modern Woodman of Am.*, 275 F. App’x 925, 926 (11th Cir. 2008) (quoting *Bickley v. Caremark RX, Inc.*, 461 F.3d 1325, 1329 n.7 (11th Cir.2006)). This includes attachments or exhibits provided with the complaint. *See Gill as Next Friend of K.C.R. v. Judd*, 941 F.3d 504, 511 (11th Cir. 2019) (“The Civil Rules provide that an attachment to a complaint generally becomes ‘part of the pleading for all purposes,’ Fed. R. Civ. P. 10(c), including for ruling on a motion to dismiss.”); *Hoefling v. City of Miami*, 811 F.3d 1271, 1277 (11th Cir. 2016) (noting that attached exhibits to a complaint can be considered on a motion to dismiss). “[W]hen exhibits attached to a complaint ‘contradict the general and conclusory allegations of the pleading, the exhibits govern.” *Gill*, 941 F.3d at 514.

When a party moves to compel arbitration, the Federal Arbitration Act states that “[t]he court shall hear the parties, and upon being satisfied that the making of the agreement for arbitration or the failure to comply therewith is not in issue . . . shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement.” 9 U.S.C. § 4 (emphasis added). The determination of whether parties have agreed to submit a dispute to arbitration is an issue of law subject to judicial resolution. *See Granite Rock Co. v. Int’l Bhd. of Teamsters*, 561 U.S. 287, 296, 130 S. Ct. 2847, 177 L. Ed. 2d 567 (2010). A motion to compel arbitration is generally treated as a motion to dismiss for subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). *Owings v. T-Mobile USA, Inc.*, 978 F. Supp. 2d 1215, 1222 (M.D. Fla. 2013). Motions to dismiss based on subject matter jurisdiction come in two forms, facial attacks and factual attacks. *Lawrence v. Dunbar*, 919 F.2d 1525, 1528-29 (11th Cir. 1990). A facial attack looks to the four corners of the complaint to consider whether subject matter jurisdiction is sufficiently alleged. *Id.* at 1529. The allegations of the Complaint are accepted as true for purposes of the motion to dismiss. *Id.* A factual attack relies on matters outside the pleadings, such as testimony or affidavits. *Id.*

In the case at hand, it is facially clear from the written and fully executed Lease Agreement that Plaintiff agreed to submit to arbitration. Notably, Plaintiff attached to his Complaint the very Lease Agreement wherein Plaintiff agreed to

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resolve any and all claims relevant to the Lease by way of arbitration. To date, there is nothing within the four corners of the Complaint and the exhibit thereto (i.e., the Lease Agreement) which contradicts or refutes the fact that Plaintiff agreed to resolve all claims under the lease via Arbitration. Moreover, the issue at hand – *whether Defendant failed to properly disclose all purchase option fees in accordance with 15 U.S.C 1667a* – is clearly an arbitrable issue.

In conclusion, Plaintiff's Complaint should be dismissed, arbitration should be compelled, and any and all discovery should be stayed pending this Court's decision as it relates to arbitration.

WHEREFORE, Defendant, CORAL SPRINGS HONDA d/b/a PAGE BROTHERS ASSOCIATES, INC., respectfully requests that this Court enter an order granting Defendant's Motion to Dismiss Plaintiff's Complaint, Compel Arbitration, and Stay Discovery, and any other further relief this Court deems just and proper under the circumstances.

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**Local Rule 7.1(A)(3) Certificate of Good Faith Conference**

Prior to filing the instant Motion, on January 20, 2023 and January 23, 2023, the Defendant, through the undersigned counsel, conferred with Plaintiff's counsel regarding the instant Motion and relief sought herein.

**Dated: January 23, 2023**

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via CM/ECF and/or electronic mail on **January 23, 2023** to all counsel of record on the below Service List.

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**SERVICE LIST**

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